

DISTRICT ATTORNEY IS TERRITORIAL AND COUNTY OFFICER

Court Sustains Demurrer of George S. Klock to Answer Filed by E. A. Mann in quo Warrant Proceedings.

NO VACANCY IN OFFICE AT TIME OF APPOINTMENT

Accepting the "right of reason" rule, emphasized by the Supreme Court of the United States in the second judicial district court today held that the office of district attorney in New Mexico is both a territorial and county office and that under the provisions of the statute no grant of authority to a territorial attorney to make such an office a county office would be valid.

HAD ON SOFT PEDAL BUT MEANT BUSINESS

Baton on the Line of New Railroad Which Dozen Smart Financiers Were Looking Over Last Week.

The twelve interested companies who visited Baton and Co. last week looking over the ground with the view of prospecting in soft coal were the same ones that the financiers are to do business with in the future. The names of the companies are given below:

George S. Klock to Answer Filed by E. A. Mann in quo Warrant Proceedings.

The decision was handed down in the quo warrant proceedings begun some months ago in which George S. Klock sought to have E. A. Mann ousted from office as district attorney.

The decision of the court today necessarily means that in the opinion of the court Mr. Mann is not entitled to the office of district attorney, that the governor acted when he appointed Mr. Mann immediately as there was no vacancy in the office at that time.

The court sustained the demurrer filed by Mr. Klock in reply to an answer by Mr. Mann to the quo warrant proceedings instituted by Mr. Klock some months ago.

The decision relative to the continuance of the district attorney in office was based on the following portion of the enabling act:

"Until the issuance of said proclamation by the president of the United States and until the said state is so admitted into the union and said state officers are elected and qualified under the provisions of the constitution, the county and territorial officers of said territory, including the delegates to congress thereof elected at the general election in 1908, shall continue to discharge the duties of their respective offices in and for said territory, provided that no session of the territorial legislative assembly shall be held in 1911."

The court based the decision on the question as to whether a district attorney is a county or territorial officer on much the same line of definition as the supreme court arrived at with reference as to whether or not the governor had the power to declare a vacancy in the office, namely by referring to statutes and to former decisions in the higher courts of the territory.

The court adds that if a district attorney is not a territorial or a county officer it is difficult to tell what he is.

Mr. Klock was nominated district attorney for the sixth district attorney of New Mexico, February 18, 1909, by the then governor of the territory, and confirmed by the legislative council, as the law required, for the term of two years and until his successor should be chosen and qualified. On Nov. 18, 1910, Governor Still made an order removing Mr. Klock from office and appointing E. A. Mann district attorney in his place. Mr. Klock contested his removal, the case being brought to the supreme court without trial in the lower court. In a decision rendered March 4, 1910, the supreme court of New Mexico held that the governor had not the power of removal, under the circumstances and therefore that the appointment was invalid. Following the enforcement and mandate of the supreme court in that case, a judgment of costs was entered in the Bernheim estate against Mr. Mann and Mr. Klock resumed the duties of the office, continuing to discharge them until April 1, 1911. Mr. Mann again filed with the field claiming the office, but another commission from the governor, dated March 29, 1911. The court recognized the commission as a new fact entitling Mr. Mann to the office and he duly qualified, entering upon the performance of his duties on April 6. Mr. Klock then filed a quo warrant proceeding.

THREE YEAR OLD IS LOST COMPLETELY

Small Boy Picked Up on Street This Morning, Fails to Speak a Word; Who Are His Parents?

Illustration of the Little Boy in the Story of the Missing Child, the Story of the Three Year Old Who Failed to Speak a Word, Who Are His Parents?

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